

Board of Education Agenda Item

Item: _____ F. _____

Date: _____ January 10, 2007 _____

Topic: Final Review of Proposed Amendments to Virginia's Consolidated State Application Accountability Plan Under the *No Child Left Behind Act of 2001*

Presenter: Dr. Linda M. Wallinger, Assistant Superintendent for Instruction
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Origin:

_____ Topic presented for information only (no board action required)

X Board review required by
X State or federal law or regulation
_____ Board of Education regulation
_____ Other: _____

X Action requested at this meeting _____ Action requested at future meeting: _____

Previous Review/Action:

_____ No previous board review/action

X Previous review/action
date October 25, 2006, and November 29, 2006
action Final Review of Proposed Amendments to Virginia's Consolidated State Application Accountability Plan Affecting Calculations of Adequate Yearly Progress (AYP) for the 2007-2008 School Year Based on Assessments Administered in 2006-2007 and First Review of Proposed Amendments to Virginia's Consolidated State Application Accountability Plan Under the *No Child Left Behind Act of 2001*

Background Information:

The *No Child Left Behind Act of 2001* (NCLB), which is a reauthorization of the Elementary and Secondary Education Act (ESEA), requires all state educational agencies (SEA) to submit for approval to the United States Department of Education (USED) individual program applications or a consolidated state application. In May 2002 the Virginia Board of Education submitted and received USED approval for its initial Consolidated State Application under NCLB. The NCLB application process involves multiple submissions of information, data, and policies. A major component of the consolidated application is Virginia's Consolidated State Application Accountability Workbook. The workbook describes a single statewide accountability system for the Commonwealth. Virginia received USED approval for its accountability workbook in June 2003. Additional amendments were made to Virginia's workbook in September 2003, May 2004, June 2005, and June 2006. The policies and procedures that were used to determine Adequate Yearly Progress (AYP) ratings for the 2006-2007 school year based on 2005-2006 assessment results are described in the amended workbook dated June 28, 2006.

States are permitted to revise their Consolidated State Application Accountability Workbook by submitting requests for review and approval to USED. USED has requested that states submit their amendment requests that would impact AYP determinations for 2007-2008 by February 15, 2007. At the October Board of Education meeting, certain amendments affecting the calculation of AYP for the 2007-2008 school year were approved. Based on five years of implementing NCLB, the Virginia Department of Education has identified additional policy changes that will minimize unintended consequences in implementation of AYP policies. As a result, consideration of the additional proposed amendments for submission to USED is requested.

Summary of Major Elements

Revisions are being proposed to several critical elements in the Consolidated State Application Accountability Plan. The statutory authority that permits states to request, and the U. S. Secretary of Education to approve, waivers to requirements in NCLB is found in Section 9401 of the federal law:

“SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

- (a) **IN GENERAL** – Except as provided in subsection (c), the Secretary may waive any statutory agency, Indian tribe, or school through a local educational agency, that –
- (1) receives funds under a program authorized by this act; and
 - (2) requests a waiver under subsection (b).”

Virginia’s proposed amendments fall under five areas: 1) reversing the order of the public school choice and supplemental educational services sanctions; 2) extending flexibility in AYP calculations for students with disabilities (SWD); 3) identifying targets for graduation rate for certain years; 4) modifying testing and AYP calculation policies for limited English proficient (LEP) students; and 5) expanding options for the other academic indicator. One amendment that was proposed at the November 29, 2006, meeting has been deleted as a result of concerns expressed by Board members and other stakeholders: Use of a Proxy Percent for LEP students in the calculation of AYP for the 2007-2008 school year. Attachment A describes each proposed amendment and the rationale for the proposed request.

On December 13, 2006, the amendments were also presented to Virginia’s NCLB Committee of Practitioners for review and comment, as required under Section 1903(b). A summary of the recommendations of the committee follows.

Recommendation	Status
Include additional flexibility for inclusion of limited English proficient (LEP) students in the accountability system.	Included.
Count students as passing if they pass a Standards of Learning (SOL) assessment after the initial attempt.	Previously approved. This request was approved by the United States Department of Education (USED) in July 2006, as follows: Virginia will count in Adequate Yearly Progress (AYP) determinations the passing scores of all students who retake tests needed for graduation.
Allow schools and school divisions to make AYP without meeting all 29 indicators.	Not included. The Board has previously sought various versions of this request that USED has not approved. Virginia has been approved for one modification related to the request: to calculate AYP based on the same subject across all grade spans.

Recommendation	Status
Support the November 2006 recommendation that requested the use of a proxy percent for limited English proficient (LEP) students based on a similar model used for students with disabilities.	Not included. Concerns were expressed about the use of the percent proxy for limited English proficient (LEP) students being based on the model used for students with disabilities. The point was made that LEP students do not have a documented disability, but instead lack proficiency in English.
Include the General Educational Development (GED) certificate in the calculation of the graduation rate.	Not included. Section 8 VAC 20-131-5 of the <i>Regulations Establishing Standards for Accrediting Public Schools in Virginia</i> defines a “graduate” as a student who has earned a Board of Education recognized diploma, which includes the Advanced Studies, Standard, Modified Standard, Special, and General Achievement diplomas.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept for final review the proposed amendments to the Virginia Consolidated State Application Accountability Plan as permitted in Section 9401 of the federal law.

Impact on Resources:

The provisions of the *No Child Left Behind Act of 2001* require the Department of Education to collect and analyze data related to determining Adequate Yearly Progress (AYP) for all schools and school divisions in the state as well as to collect and report additional data on English language proficiency for LEP students. These requirements will continue to have an impact on the agency’s resources.

Timetable for Further Review/Action:

Following final approval, the proposed revisions will be submitted to the United States Department of Education as amendments to Virginia’s Consolidated State Application Accountability Workbook by the deadline of February 15, 2007.

**Proposed Amendments to Virginia's Consolidated State Application
Accountability Plan as Required by the *No Child Left Behind Act of 2001*
(NCLB)**

January 10, 2007

NCLB Statutory Authority for Amendment Requests:

“SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

- (b) IN GENERAL – Except as provided in subsection (c), the Secretary may waive any statutory agency, Indian tribe, or school through a local educational agency, that –
 - (1) receives funds under a program authorized by this act; and
 - (2) requests a waiver under subsection (b).”

<p><i>1. Reversing Order of School Improvement Sanctions (Critical Elements 1.6 and 4.1)</i></p>

Request: Virginia will allow schools the flexibility to reverse the order of sanctions in the first two years of school improvement. Supplemental educational services may be offered to eligible students attending Title I schools in improvement in the first year and public school choice in the second year.

Rationale: Currently, USED requires Title I schools in Year One Improvement status to provide eligible students the option of public school choice. Title I schools in Year Two Improvement status must provide eligible students supplemental educational services (SES) and continue to offer choice. An effective school choice plan requires time to develop and communicate to parents and the public. AYP is calculated using test scores from the spring administration; therefore, AYP determinations are not available until late July or early August. This is too close to the opening of school for choice plans to be implemented effectively. A more effective intervention strategy for the first year of improvement is offering eligible students SES while planning for choice implementation. If the school moves to Year Two Improvement status, the school would offer choice while continuing to provide SES.

Virginia has participated in a USED pilot for the past two years that permits four school divisions to provide SES to eligible students in Title I schools in the first year of school improvement in lieu of choice, thereby reversing the order of sanctions as specified in the law. The pilot divisions report favorable results in higher levels of student participation as well as improved student achievement.

2. Assessing Students with Disabilities – Use of Two Percent Proxy and One Percent Exception (Critical Element 5.3)

Request: Virginia will continue to implement the United State's Secretary of Education's Transition Option Number 1 (2 percent proxy) for the inclusion of students with disabilities in the calculation of Adequate Yearly Progress (AYP) for the 2007-2008 school year, based on assessments administered to those students during the 2006-2007 school year. The proxy will be calculated in accordance with guidance disseminated by USED on May 10, 2005. In addition, Virginia requests an exception of 1.1 percent to the 1 percent cap on the number of proficient and advanced scores from alternative assessments based on alternate achievement standards that may be included in AYP.

Rationale: The U.S. Secretary of Education has extended the use of a proxy for students with disabilities who are pursuing modified achievement standards until final regulations on the application of flexibility for these students are promulgated. Virginia is requesting a continuation of the use of the proxy for these students under this extension.

The exception of 1.1 percent to the 1 percent cap on the number of proficient and advanced scores from the Virginia Alternate Assessment Program (VAAP) that may be included in AYP is being requested because final data on proficiency scores for VAAP are not yet available. It is possible that the number will fall below 1 percent. However, approval of the use of a 1.1 percent cap will provide the Virginia Department of Education with sufficient flexibility to work with those school divisions that have justifiably exceeded a 1 percent cap for the VAAP proficiency rate.

3. Annual Measurable Objectives for Graduation Rate (Critical Element 3.2b)

Request: Virginia will recalculate the graduation rate and annual measurable objective (AMO) using the formula and methodology approved by USED in 2003 in the Consolidated State Application Accountability Workbook. Current graduation data will be used to recalculate the AMO. This interim AMO will be used for the graduation rate through 2008 Adequate Yearly Progress (AYP) calculations when the statewide individual student record system is able to provide a more accurate accounting of the graduation rate in Virginia. The interim AMO will be 61 percent. As required by USED, this represents the percent of on-time graduates who receive a Standard or Advanced Studies Diploma.

Rationale: Longitudinal graduation rate data will not be available to set a revised graduation rate target until 2008. At that time, the graduation rate targets for 2008-2009 and beyond will be recalculated and used in determining AYP ratings beginning in 2009-2010. (AYP ratings are based on the prior year's graduation rate.) The NCLB graduation rate formula also will be revisited in 2008-2009 for alignment with the Board's adoption of the NGA graduation rate formula.

Annual Measurable Objectives for Graduation Rate Expressed as Percents											
2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
57	57	57	57	61	61	TBD	TBD	TBD	TBD	TBD	TBD

4. Assessing Limited English Proficient Students – “Recently Arrived” Definition (Critical Element 5.4)

Request: Virginia will exempt recently arrived LEP students at levels 1 and 2 of English language proficiency from the state reading/language arts assessment for two consecutive years.

Rationale: Virginia will expand the definition of recently arrived LEP students as those students at English language proficiency levels 1 and 2 who have attended schools in the United States for less than 24 months. The current USED regulations released on September 13, 2006, on this topic define recently arrived as LEP students who have attended schools in the U.S. for less than 12 months. This expansion of the definition would provide LEP students adequate time to learn English before being required to take the grade-level reading/language arts assessment.

~~5. Assessing Limited English Proficient Students – Use of a Proxy Percent (Critical Element 5.4)~~

Request: ~~Virginia will apply a proxy percent for limited English proficient (LEP) students in the calculation of Adequate Yearly Progress (AYP) for the 2007-2008 school year, based on assessments administered to those students during the 2006-2007 school year.~~

5. Other Academic Indicator (Critical Element 7.2)

Request: Virginia will allow school divisions to choose, for each of its elementary and middle schools and schools without a graduating class, attendance or performance on state science, writing, or history and social science assessments as the other academic indicator. The choice of using either attendance or performance on state science, writing, or history and social science as the other academic indicator will also apply to the “safe harbor” AYP calculation methodology.

Rationale: Currently, prior to the beginning of the school year, each school division chooses, for each of its elementary and middle schools and schools without a graduating class, either attendance or performance on state science assessments as the other academic indicator. This request would permit school divisions flexibility to choose attendance or performance on state science, writing,

or history and social science assessments as the other academic indicator. The annual measurable objective (state target) for measuring progress in science is set at 70 percent proficient, consistent with the provisions in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*. The annual measurable objective (state target) for measuring progress in writing and history and social science will be set at 70 percent proficient, consistent with provisions in the *Regulations Establishing Standards for Accrediting Public Schools in Virginia*.